

Farm Credit Administration

§614.4367

(1) Funds advanced in excess of existing commitment;

(2) A different borrower is substituted for a borrower who is subsequently released; or

(3) An additional person becomes an obligor on the loan.

(b) A commitment made prior to the effective date of these regulations which exceeds the lending and leasing limit may be funded to the full extent of the legal commitment. Any advances that exceed the lending and leasing limit are subject to the provisions prescribed in §614.4360.

[58 FR 40321, July 28, 1993. Redesignated and amended at 64 FR 34517, 34518, June 28, 1999]

Subpart K—Disclosure of Loan Information

SOURCE: 53 FR 35451, Sept. 14, 1988, unless otherwise noted.

§614.4365 Applicability.

This subpart applies only to loans from qualified lenders if the loans are not subject to the Truth in Lending Act (15 U.S.C. 1601 *et seq.*).

§614.4366 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Adjustable rate loan* means a loan on which the interest rate payable over the term of the loan may be changed by a qualified lender. The term includes loans which are titled *adjustable rate* or *variable rate* or any other similar designation.

(b) *Effective interest rate* means the interest rate applicable to the loan at a point in time, adjusted to take into consideration the amount of any stock or participation certificates which the borrower must purchase pursuant to bylaw, policy or regulation in order to obtain the loan, and any loan origination charges.

(c) *Fixed rate loan* means any loan on which the interest rate is not subject to adjustment or variation over the term of the loan, even though the effective interest rate on the loan may be so subject.

(d) *Interest rate* means the stated contract rate of interest applicable to the loan at a point in time, excluding any

charges payable by the borrower in obtaining the loan.

(e) *Loan* means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

(f) *Loan origination charges* mean initial one-time transaction charges or fees, which may or may not be computed as a percentage of the transaction amount, and which are imposed on a borrower by a qualified lender to obtain a loan, but do not include charges imposed by someone other than the lender for services that are not required by the lender.

(g) *Qualified lender* means:

(1) A System institution that makes loans (as defined in paragraph (e) of this section) except a bank for cooperatives; and

(2) Each bank, institution, corporation, company, union, and association described in section 1.7(b)(1)(B) of the Act but only with respect to loans discounted or pledged under section 1.7(b)(1) of the Act.

(h) *Standard adjustments factors* means those financial elements, including but not limited to, a qualified lender's cost of funds, operating expenses, provision for loan losses, and changes in retained earnings, which are typically taken into consideration by a qualified lender in adjusting the interest rate on loans.

§614.4367 Required disclosures—in general.

(a) Each qualified lender shall furnish the following information in writing to a prospective borrower not later than the time of the loan closing:

(1) The current rate of interest on the loan;

(2) In the case of an adjustable rate loan:

(i) The amount and frequency by which the interest rate can be adjusted during the term of the loan or, if there are no limitations on the amount or frequency of such adjustments, a statement to that effect; and

§ 614.4367

(ii) An identification of the specific standard adjustment factors that are taken into account in making adjustments to the interest rate on the loan;

(3) The current effective interest rate on the loan with one or more representative examples of the impact of stock or participation certificate ownership and applicable loan origination charges on the current interest rate computed on an annualized basis;

(4) A statement indicating that stock that is purchased is at risk;

(5) A statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrower's rights that apply to each type of loan.

(b) Each qualified lender that adjusts the interest rate on an outstanding loan shall furnish the following information in writing to the borrower:

(1) The new interest rate on the loan;

(2) The date on which the new rate is effective; and

(3) A statement of any factors other than standard adjustment factors which were taken into account in establishing the new interest rate. The notice required by this paragraph shall be made not later than 10 days after the effective date of a change in the interest rate. However, if the interest rate is directly tied to an external index that is widely publicized, the notice of change must be made promptly but not later than 30 days after the change in interest rate.

(c) Each qualified lender that takes any action which changes the amount of stock or participation certificates which borrowers are required to own and that modifies the effective interest rate on a loan shall furnish the following information in writing to the borrower at least 10 days before the date on which such action takes effect:

(1) The impact on the effective interest rate by disclosing the new effective interest rate or by a representative example;

(2) The date on which the new rate is effective; and

(3) A statement of the action(s) taken by the qualified lender that have resulted in the new effective interest rate.

(d) In the case of a loan involving more than one primary obligor, the re-

12 CFR Ch. VI (1-1-02 Edition)

quirements of paragraphs (a) through (d) of this section will be satisfied by providing the disclosure to any one of such parties.

[53 FR 35451, Sept. 14, 1988, as amended at 63 FR 63647, Dec. 2, 1997]

APPENDIX TO 12 CFR 614.4367—REQUIRED DISCLOSURE

MODEL DISCLOSURE FORMS

GENERAL

The following are model disclosure forms which qualified lenders may use to satisfy the notification requirements of section 4.13(a) of the Act and of 12 CFR 614.4367. The forms have been developed in order to give qualified lenders an idea of the type and extent of information that should be contained therein. Qualified lenders are not required to follow the format of the sample forms. Qualified lenders may develop and use other forms provided the statements contain comparable disclosures in clear, understandable English and otherwise meet the requirements of the Act and regulations.

Form 1

This loan is *NOT* subject to the Truth in Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C. 2199.

INTEREST RATE DISCLOSURE

Date: _____

Lender: _____
(Name)

Borrower: _____
(Name)

STATED INTEREST RATE

The rate of interest currently applicable to your loan

(Percentage)

EFFECTIVE INTEREST RATE¹

The stated rate of interest adjusted to take into account loan origination charges and purchase of stock

(Percentage)

¹This is a projection subject to change should particular loan provisions be modified during the term of the loan, such as the amount of stock or participation certificates held or the timing of repayment. For example, if the amount of stock or participation certificates held is increased to _____, the effective interest rate will be _____.

Farm Credit Administration

§ 614.4440

Check Applicable Box

☐ This is a **FIXED RATE LOAN**—the stated rate of interest is not subject to change during the life of the loan.

☐ This is an **ADJUSTABLE RATE LOAN**—the stated rate of interest is subject to change during the life of the loan.

If an Adjustable Rate Loan—

The interest rate on the loan may be changed (*Period*).

The interest rate may be changed a maximum \pm (*Percentage*).

You will be notified 10 days prior to any increase in the effective rate or simultaneously with any decrease in the effective rate.

The Standard Adjustment Factor(s) which the institution takes into account in making adjustments to the interest rate is (are) (*list the factors*).

The Standard Adjustment Factors may ☐ or may not ☐ be changed during the life of the loan.

Except with respect to eligible borrower stock under section 4.9A of the Farm Credit Act of 1971, stock that is purchased in this institution is at risk.

See your contract documents for further information on loan terms and conditions.

Should you have any questions concerning the information contained in this form please contact us at (*Telephone Number*).

Form 2

This loan is not subject to the Truth in Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C. 2199.

DISCLOSURE OF A CHANGE IN THE EFFECTIVE INTEREST RATE

Date: _____

Lender: _____
(Name)

Borrower: _____
(Name)

This is to inform you that on (*loan and loan number*),

☐ The effective rate of interest will be adjusted effective (*Date*).

The effective rate of interest on your loan is changed to (*Percentage*) from (*Percentage*).

This change resulted from a:

☐ 1. Change in the amount of stock borrowers are required to hold in the lender to (*Percentage*) from (*Percentage*).

☐ 2. Change in the stated rate of interest on your loan effective (*Date*).

The stated rate of interest on your loan changed to (*Percentage*) from (*Percentage*).

The change was computed based on the:

☐ Standard adjustment factors—factors mentioned on the initial interest rate disclosure.

☐ Other—describe.

☐ 3. Change for other reasons—describe.

Should you have any questions concerning the information contained herein, please contact us at (*Telephone Number*).

[53 FR 35451, Sept. 14, 1988, as amended at 54 FR 1153, Jan. 12, 1989; 54 FR 50736, Dec. 11, 1989; 61 FR 11304, Mar. 20, 1996]

§ 614.4368 Disclosure of differential interest rates.

(a) A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower:

(1) Provide a review of the loan to determine if the proper interest rate has been established;

(2) Explain to the borrower in writing the basis for the interest rate charged; and

(3) Explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.

(b) A qualified lender offering more than one rate of interest as described in paragraph (a) of this section, shall notify prospective borrowers not later than the time of loan closing of their right to request a review under paragraph (a) of this section.

Subpart L—Actions on Applications; Review of Credit Decisions

SOURCE: 53 FR 35452, Sept. 14, 1988, unless otherwise noted.

§ 614.4440 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) *Adverse credit decision* means a decision to deny the credit applied for, or approve an extension of credit in an amount less than the amount applied for; to deny an application for restructuring;

(b) *Applicant* means any person who completes and executes a formal application for an extension of credit from a qualified lender, or a borrower who completes an application for restructuring;

(c) *Application for restructuring* means a written request—

(1) From a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring